

January 16, 2009

VIA ECF

Honorable Cheryl L. Pollack
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Thornburg Mortgage Home Loans, Inc. v. Wall Street
Mortgage Bankers Ltd. d/b/a Power Express
Index No.: 08-CV-2719

Dear Magistrate Judge Pollack:

The undersigned is counsel to the defendants Wall Street Mortgage Bankers, Ltd. The following constitutes a response to the Court's directive that the Defendant show cause why sanctions should not be imposed for failing to serve Rule 26 disclosures. Initially, the Court should be advised that the Rule 26 disclosures, along with responses to all of the plaintiff's discovery demands, have served.

The defendants' failure to serve the automatic disclosures was not intentional. Initially, the Rule 26 disclosures, as well as a Rule 7.1 statement, were drafted by the undersigned and put in the file for editing and review upon receipt of documents responsive related to this case. Unfortunately, due to a series of personal family issues, the undersigned was out of the office for a good part of November and December, and simply did not realize that the disclosures were not served. This was particularly so after counsel for the plaintiff e-mailed the undersigned to inquire about the disclosures. Not being in the office on a regular contributed to the situation. But more significantly, the out of the office personal issues caused a significant distraction.

If the Court requires any additional information as to the specifics, it is requested that they be submitted *in camera* due to the personal nature of the issues.

In light of the foregoing, it is respectfully submitted that no discovery sanctions be issued as a result of the failure to timely serve discovery responses.

Very truly yours,
Friedman Harfenist Kraut & Perlstein LLP

By: /s/Steven J. Harfenist
Steven J. Harfenist

SJH/kep
cc: Angelo A. Stio III, Esq.